

Assembly Bill No. 1298

CHAPTER 488

An act to amend Sections 23357.2, 23358.3, 23366.3, 23389, 23390, 23399, 23399.4, 24042, 24042.5, 24045.7, 24045.11, 24045.85, and 24048 of, to repeal Sections 23320.2 and 23320.3 of, and to repeal and add Section 23320 of, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor October 3, 2001. Filed with
Secretary of State October 4, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, Wesson. Alcoholic beverage control: licenses: fees.

The Alcoholic Beverage Control Act provides for the issuance of licenses for which various annual fees are charged depending upon the type of license issued.

This bill would increase these annual fees by specified amounts through 2004, and would annually permit the Department of Alcoholic Beverage Control to adjust the fees charged commencing with the 2005 calendar year by an amount not to exceed an inflation factor based on the Consumer Price Index for the west region.

Under the Alcoholic Beverage Control Act, the Department of Alcoholic Beverage Control may issue a special on-sale general license to any nonprofit theater company that has been in existence for at least 10 years and meets other specified requirements. Theater companies holding a license pursuant to these provisions may only sell and serve alcoholic beverages to ticketholders during, 2 hours prior to, and one hour after, a bona fide theater performance of the company.

This bill would require that the license issued to the theater company be for a single specified premises, and would remove the requirement that the theater company have been in existence for at least 10 years.

This bill would permit a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, to serve on the board of trustees of a nonprofit theater company operating a theater in Napa County licensed pursuant to these provisions.

This bill would also require the department to conduct specified studies.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the regulation of the manufacture, importation, supply, and sale of alcoholic beverages continues to be among the highest priorities of the state. The Department of Alcoholic Beverage Control is charged with the regulatory oversight of some 70,000 licensees throughout the State of California, as well as investigating in excess of 10,000 new and transfer applications per year. Because the department is a special fund department, it has been required to perform its functions with a budget derived solely from the fees paid by licensees. Yet, these fees have not been increased to keep pace with inflation or rising costs of operating the department since 1978. As a result of the neglect of insuring appropriate funding levels, the department is facing a budget crisis, with the reduction in enforcement capabilities being imminent. Failure to correct the immediate funding shortfall, as well as ensuring the fiscal integrity of the department in the future, will significantly impede the department's ability to meet its continuing obligations to protect the safety, welfare, health, peace, and morals of the people of the state. It is the intent of the Legislature in enacting this act to return the department to an acceptable level of funding by adjusting license fees over a three-year period to a level consistent with the increased costs associated with the regulation of the licensees, and assuring a continued level of reasonable and responsible funding into the future through annual adjustments in the Budget Act.

SEC. 2. Section 23320 of the Business and Professions Code is repealed.

SEC. 3. Section 23320 is added to the Business and Professions Code, to read:

23320. (a) The following are the types of licenses and the annual fees to be charged therefor:

Name & License Type Number:	Fee Effective 01/01/02	Fee Effective 01/01/03	Fee Effective 01/01/04
-----------------------------	---------------------------	---------------------------	---------------------------

(1) Beer manufacturer:			
(a) Beer manufacturers that produce 60,000 barrels or less a year (Type 23)	\$127.00	\$134.00	\$140.00
(b) All other beer manufacturers (Type 1)	\$1,043.00	\$1,098.00	\$1,153.00
(c) Branch Office			
—Small Beer Manufacturers (Type 23D)	\$69.00	\$71.00	\$73.00
—Beer Manufacturers (Type 1D)	\$69.00	\$71.00	\$73.00
(2) Winegrower or wine blender (to be computed only on the gallage produced or blended) (Type 2 & Type 22)			
—5,000 gallons or less	\$34.00	\$44.00	\$54.00
—Over 5,000 gallons to 20,000 gallons per year	\$65.00	\$80.00	\$99.00
—Over 20,000 to 100,000 gallons per year	\$130.00	\$155.00	\$180.00
—Over 100,000 to 200,000 gallons per year	\$180.00	\$205.00	\$237.00
—Over 200,000 gallons to 1,000,000 gallons per year	\$250.00	\$300.00	\$351.00



—For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional Winegrower (Branch Office) – (Type 2D)	\$170.00 \$69.00	\$200.00 \$71.00	\$229.00 \$73.00
(3) Brandy manufacturer (Type 3) Brandy manufacturer (Branch Office) (Type 3D)	\$212.00 \$204.00	\$223.00 \$210.00	\$234.00 \$215.00
(4) Distilled spirits manufacturer (Type 4) . .	\$348.00	\$366.00	\$384.00
(5) Distilled spirits manufacturer’s agent (Type 5)	\$348.00	\$366.00	\$384.00
(5a) California winegrower’s agent (Type 27)	\$348.00	\$366.00	\$384.00
(6) Still (Type 6)	\$33.00	\$46.00	\$58.00
(7) Rectifier (Type 7)	\$348.00	\$366.00	\$384.00
(7a) Distilled spirits rectifier’s general license (Type 24)	\$348.00	\$366.00	\$384.00
(8) Wine rectifier (Type 8)	\$348.00	\$366.00	\$384.00
(9) Beer & wine importer (Type 9)	\$25.00	\$42.00	\$58.00
(10) Beer & wine importer’s general license (Type 10)	\$147.00	\$202.00	\$256.00
(11) Brandy importer (Type 11)	\$25.00	\$42.00	\$58.00
(12) Distilled spirits importer (Type 12)	\$25.00	\$42.00	\$58.00
(13) Distilled spirits importer’s general license (Type 13)	\$348.00	\$366.00	\$384.00
(14) Public warehouse (Type 14)	\$33.00	\$46.00	\$58.00

(15) Customs broker (Type 15)	\$33.00	\$46.00	\$58.00
(16) Wine broker (Type 16)	\$71.00	\$75.00	\$78.00
(17) Beer & wine wholesaler (Type 17)	\$147.00	\$202.00	\$256.00
(18) Distilled spirits wholesaler (Type 18) . . .	\$348.00	\$366.00	\$384.00
(18a) California brandy wholesaler (Type 25) . . .	\$348.00	\$366.00	\$384.00
(19) Industrial alcohol dealer (Type 19)	\$71.00	\$75.00	\$78.00
(20) Retail package off-sale beer & wine (Type 20) . .	\$105.00	\$157.00	\$209.00
(21) Retail package off-sale general license (Type 21) and controlled access cabinet permit (Type 66)	\$431.00	\$448.00	\$464.00
(22) On-sale beer (Type 40 & Type 61); On-sale beer & wine (Type 42); Special on-sale beer & wine (Theater) (Type 69); and Special on-sale beer & wine (Symphony) (Type 65)	\$204.00	\$210.00	\$215.00
(23) On-sale beer & wine eating place (Type 41) . .	\$236.00	\$263.00	\$290.00
(24) On-sale beer & wine license for trains (per train) (Type 43)	\$48.00	\$68.00	\$87.00
(25) On-sale beer license for fishing party boats (per boat) (Type 44)	\$59.00	\$73.00	\$87.00
(26) On-sale beer & wine license for boats (per boat) (Type 45)	\$75.00	\$81.00	\$87.00



(27) On-sale beer & wine license for airplanes (per scheduled flight) (Type 46)	\$48.00	\$68.00	\$87.00
(28) On-sale general license (Types 47, 48, 57, 70, 75, 78, 78D (for 78D see Section 23396.2)) and club caterer's permit (Type 58):			
—In cities of 40,000 population or over	\$698.00	\$715.00	\$731.00
—In cities of less than 40,000 but more than 20,000 population	\$503.00	\$520.00	\$536.00
—In all other localities	\$443.00	\$460.00	\$476.00
Duplicate on-sale general license (Types 47D, 48D, 57D) and portable bar license (Type 68):			
—In cities of 40,000 population or over ...	\$499.00	\$513.00	\$526.00
—In cities of less than 40,000 but more than 20,000 population ...	\$295.00	\$303.00	\$311.00
—In all other localities	\$233.00	\$239.00	\$245.00



(29) On-sale general license for seasonal business (Type 49):			
—In cities of 40,000 population or over (per quarter)	\$176.00	\$181.00	\$186.00
—In cities of less than 40,000 but more than 20,000 population (per quarter)	\$126.00	\$129.00	\$132.00
—In all other localities (per quarter)	\$109.00	\$112.00	\$115.00
Duplicate on-sale general license for seasonal business (Type 49D):			
—In cities of 40,000 population or over (per quarter)	\$126.00	\$129.00	\$132.00
—In cities of less than 40,000 but more than 20,000 population (per quarter)	\$74.00	\$76.00	\$78.00
—In all other localities (per quarter)	\$59.00	\$61.00	\$62.00



(30) (a) On-sale general license for bona fide clubs, (b) Club license (issued under Article 4 of this chapter), or (c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter) (Types 50, 51, 52, & 64):			
—In cities of 40,000 population or over . . .	\$400.00	\$411.00	\$422.00
—In cities of less than 40,000 but more than 20,000 population . . .	\$301.00	\$309.00	\$317.00
—In all other localities	\$267.00	\$274.00	\$281.00
(31) On-sale general license for trains and sleeping cars (Type 53)	\$156.00	\$160.00	\$164.00
—Duplicate on-sale general license for trains and sleeping car companies (Type 53D)	\$46.00	\$52.00	\$58.00
(32) On-sale general license for boats (Type 54)	\$402.00	\$413.00	\$424.00
(33) On-sale general license for airplanes (Type 55)	\$402.00	\$413.00	\$424.00
—Duplicate on-sale general license for air common carriers (Type 55D)	\$32.00	\$45.00	\$58.00

(34) On-sale general license for vessels of more than 1,000 tons burden (Type 56) and for Maritime Museum (Type 76)	\$156.00	\$160.00	\$164.00
—Duplicate on-sale general license for vessels of more than 1,000 tons burden (Type 56D) and for Maritime Museum (Type 76D)	\$46.00	\$52.00	\$58.00
(35) On-sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement (Type 62) .	\$435.00	\$447.00	\$459.00
(36) On-sale special beer & wine license for hospitals, convalescent homes, and rest homes (Type 63) . . .	\$68.00	\$70.00	\$72.00
(37) On-sale beer & wine seasonal (Type 59) and on-sale beer seasonal (Type 60)			
—Operating period 3–9 months	\$161.00	\$171.00	\$180.00
—Operating period 3–6 months	\$108.00	\$115.00	\$122.00

(b) Beginning January 1, 2005, and each January 1 thereafter, the department may adjust each of the fees specified in the foregoing section by increasing each fee by an amount not to exceed the percentage that the Consumer Price Index (United States Bureau of Labor Statistics, West Region, All Urban Consumers, All Items, Base Period 1982–84=100) for the preceding April 2003, and each April annually thereafter, has increased under the same index over the month of April 2002, which shall be the base period. No fee shall be decreased pursuant

to this adjustment below the fee currently in effect on each December 31. In the event that this index is discontinued, the department shall consult with the Department of Finance to convert the increase calculations to an index then available. When approved by the Department of Finance, the new index shall replace the discontinued index.

(c) The department shall calculate the percentage increase as specified in subdivision (b) and shall apply this increase to each fee. The increase to each fee shall be rounded to the nearest whole dollar. The adjusted fee list shall be published by the department and transmitted to the Legislature for approval as part of the department's budget submission for the fiscal year in which the adjusted fees would be implemented. This adjustment of fees and publication of the adjusted fee list is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 23320.2 of the Business and Professions Code is repealed.

SEC. 5. Section 23320.3 of the Business and Professions Code is repealed.

SEC. 6. Section 23357.2 of the Business and Professions Code is amended to read:

23357.2. (a) An out-of-state beer manufacturer's certificate may be issued by the department upon the written undertaking and agreement by the applicant:

(1) That it and its agents and all agencies within this state controlled by it shall comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages, including, but not limited to, Chapter 12 (commencing with Section 25000) of Division 9, and Section 25509, to the same extent as licensees.

(2) That it shall make available, both in California and outside the state, for inspection and copying by the department, all books, documents, and records, located both within and without this state, which are pertinent to the activities of the applicant, its agents and agencies within this state controlled by it, in connection with the sale and distribution of its products within this state.

(b) The department may suspend or revoke an out-of-state beer manufacturer's certificate for cause in the manner provided for the suspension or revocation of licenses, and after a hearing which shall be held in the City of Sacramento or in any other county seat in this state as the department determines to be convenient to the holder of an out-of-state certificate.

(c) The annual fees for an out-of-state beer manufacturer's certificate shall be fifty-four dollars (\$54) for certificates issued during the 2002 calendar year, fifty-seven dollars (\$57) for certificates issued during the

2003 calendar year, sixty dollars (\$60) for certificates issued during the 2004 calendar year, and for certificates issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

(d) All money collected from the fees provided for in this section shall be deposited in the Alcohol Beverage Control Fund as provided by Section 25761.

SEC. 7. Section 23358.3 of the Business and Professions Code is amended to read:

23358.3. A wine grape grower's storage license authorizes the holder to store bulk wine, made from grapes produced by the holder, on the premises of a licensed winegrower and to sell that wine, within this state, to winegrowers, distilled spirits manufacturers, brandy manufacturers, wine blenders, and vinegar producers.

The annual fee for a wine grape grower's storage license shall be sixty dollars (\$60) for licenses issued during the 2002 calendar year, sixty-four dollars (\$64) for licenses issued during the 2003 calendar year, sixty-seven dollars (\$67) for licenses issued during the 2004 calendar year, and for licenses issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

SEC. 8. Section 23366.3 of the Business and Professions Code is amended to read:

23366.3. (a) An out-of-state distilled spirits shipper's certificate may be issued by the department upon the written undertaking and agreement by the applicant:

(1) That it and its agents and all agencies within this state controlled by it shall comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages;

(2) That it shall make available, both in California and outside the state, for inspection and copying by the department, all books, documents, and records, located both within and without the state, which are pertinent to the activities of the applicant, its agents and agencies within this state controlled by it, in connection with the sale and distribution of its products within this state.

(b) The department may suspend or revoke an out-of-state distilled spirits shipper's certificate for cause in the manner provided for the suspension and revocation of licenses, and after a hearing which shall be held in the City of Sacramento or in such other county seat in the state as the department determines to be convenient to the holder of an out-of-state distilled spirits shipper's certificate.

(c) The annual fees for an out-of-state distilled spirits shipper's certificate shall be fifty-four dollars (\$54) for certificates issued during



the 2002 calendar year, fifty-seven dollars (\$57) for certificates issued during the 2003 calendar year, sixty dollars (\$60) for certificates issued during the 2004 calendar year, and for certificates issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

(d) All money collected from the fees provided for in this section shall be deposited in the Alcohol Beverage Control Fund, as provided by Section 25761.

SEC. 9. Section 23389 of the Business and Professions Code is amended to read:

23389. A licensed beer manufacturer may sell and deliver beer from branch offices located away from his or her place of manufacture and exercise all his or her license privileges, other than manufacture, at or from the branch offices. The department shall upon request issue to a beer manufacturer a duplicate of his or her original license which shall authorize the maintenance and operation of each branch declared and designated by him or her, upon the payment for each duplicate of the fee specified in Section 23320.

Notwithstanding the provisions of any other section of this division, the duplicate license shall be issued forthwith upon the application therefor. In the event any protest is received by the department concerning the issuance of the duplicate license, the protest shall be considered as an accusation against the licensee and a hearing had thereon as if an accusation had been filed.

For 30 days from the date of the issuance of the duplicate license, no retail sales of beer shall be made at any branch office for which a duplicate license is issued pursuant to this section.

SEC. 10. Section 23390 of the Business and Professions Code is amended to read:

23390. A licensed winegrower or brandy manufacturer, in addition to exercising all the privileges of his or her license at his or her licensed premises, may exercise all his or her license privileges at or from branch offices or warehouses, or United States bonded wine cellars located away from his or her place of production or manufacture, other than production or manufacture, the sale of wine or brandy to consumers for consumption on the premises in a bona fide eating place, and the sale or delivery of wine to consumers in containers supplied, furnished, or sold by the consumer. The department shall, upon request, issue to a winegrower or brandy manufacturer a duplicate of his or her original license for a location or locations other than his or her wine production or brandy manufacture premises. The duplicate license authorizes the maintenance and operation of each branch or warehouse or United States bonded wine cellar declared and designated by the winegrower or brandy



manufacturer at the location for which the duplicate license is issued. The fee for each duplicate winegrower's license and for each duplicate brandy manufacturer's license is as specified in Section 23320.

Notwithstanding the provisions of any other section of this division, a duplicate winegrower's license or duplicate brandy manufacturer's license shall be issued forthwith upon the application therefor. In the event any protest is received by the department concerning the issuance of the duplicate license, the protest shall be considered as an accusation against the licensee and a hearing had thereon as if an accusation had been filed.

For 30 days from the date of the issuance of the duplicate license, no retail sales of wine or brandy shall be made at any branch office for which a duplicate winegrower's license or duplicate brandy manufacturer's license is issued pursuant to this section.

Notwithstanding any other provision of law, the department may allow any person who held more than one original winegrower's license, on or before January 1, 1981, to transfer any duplicate license which has been issued, on or before January 1, 1981, on any of the original winegrower's licenses to any other original winegrower's license held by that person, on or before January 1, 1981, provided that the licensee cancels the original winegrower's license from which any duplicate license is transferred. This subdivision shall not authorize any person to acquire any additional duplicate licenses other than those held by that licensee on or before January 1, 1981.

SEC. 11. Section 23399 of the Business and Professions Code is amended to read:

23399. (a) An on-sale general license authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Any licensee under an on-sale general license, a club license, or a veterans' club license may apply to the department for a caterer's permit. A caterer's permit under an on-sale general license shall authorize the sale of beer, wine, and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events held any place in the state approved by the department. A caterer's permit under a club license or a veterans' club license shall authorize sales at these events only upon the licensed club premises.

(b) Any licensee under an on-sale general license or an on-sale beer and wine license may apply to the department for an event permit. An event permit under an on-sale general license or an on-sale beer and wine license shall authorize, at events held no more frequently than one day in any single calendar quarter, the sale of beer, wine, and distilled spirits only under an on-sale general license or beer and wine only under an on-sale beer and wine license for consumption on property adjacent to



the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. For purposes of this subdivision, “calendar quarter” means January 1 to March 31, inclusive, April 1 to June 30, inclusive, July 1 to September 30, inclusive, or October 1 to December 31, inclusive, of any calendar year.

(c) This section shall in no way limit the power of the department to issue special licenses under the provisions of Section 24045 or to issue daily on-sale general licenses under the provisions of Section 24045.1. Consent for sales at each event shall be first obtained from the department in the form of a catering or event authorization issued pursuant to rules prescribed by it. Any event authorization shall be subject to approval by the appropriate local law enforcement agency. Each catering or event authorization shall be issued at a fee not to exceed ten dollars (\$10) and this fee shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(d) At all approved events, the licensee may exercise only those privileges authorized by the licensee’s license and shall comply with all provisions of the act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee’s license or permit, or both, as though the violation occurred on the licensed premises.

(e) The fee for a caterer’s permit for a licensee under an on-sale general license or an event permit for a licensee under an on-sale general license or an on-sale beer and wine license shall be one hundred four dollars (\$104) for permits issued during the 2002 calendar year, one hundred seven dollars (\$107) for permits issued during the 2003 calendar year, one hundred ten dollars (\$110) for permits issued during the 2004 calendar year, and for permits issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320, and the fee for a caterer’s permit for a licensee under a club license or a veterans’ club license shall be as specified in Section 23320, and the permit may be renewable annually at the same time as the licensee’s license. A caterer’s or event permit shall be transferable as a part of the license.

SEC. 12. Section 23399.4 of the Business and Professions Code is amended to read:

23399.4. (a) A licensee under a winegrower’s license may apply to the department for a certified farmers’ market sales permit. A certified farmers’ market sales permit shall authorize the licensee, a member of the licensee’s family, or an employee of the licensee to sell wine produced and bottled by the winegrower entirely from grapes grown by the winegrower at a certified farmers’ market at any place in the state



approved by the department. The permit may be issued for up to 12 months but shall not be valid for more than one day a week at any single specified certified farmers' market location. A winegrower may hold more than one certified farmers' market sales permit. The department shall notify the city, county, or city and county and applicable law enforcement agency where the certified farmers' market is to be held of the issuance of the permit. A "certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

(b) The licensed winegrower eligible for the certified farmers' market sales permit shall not sell more than 5,000 gallons of wine annually pursuant to all certified farmers' market sales permits held by any single winegrower. The licensed winegrower shall report total certified farmers' market wine sales to the department on an annual basis. The report may be included within the annual report of production submitted to the department, or pursuant to any regulation as may be prescribed by the department.

(c) The fee for any permit issued pursuant to this section shall be forty-four dollars (\$44) for permits issued during the 2002 calendar year, forty-seven dollars (\$47) for permits issued during the 2003 calendar year, fifty dollars (\$50) for permits issued during the 2004 calendar year, and for permits issued during the years thereafter, the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

(d) All money collected as fees pursuant to this section shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

SEC. 13. Section 24042 of the Business and Professions Code is amended to read:

24042. Any licensee under an on-sale general license or an on-sale general license for seasonal business who maintains upon or within the premises for which the license is issued more than one room in which there is regularly maintained a fixed counter or service bar at which distilled spirits are served to members of the public for consumption within the licensed premises shall obtain from the department, and the department may upon request issue, a duplicate of his or her original license for each room, in excess of one, containing a fixed counter or service bar and shall post a duplicate of his or her original license in each room. Failure to obtain the duplicate licenses and to pay the fees and renewal fees, as specified in Section 23320, shall subject the licensee to the penalties imposed by this division for failure to obtain an original license or to pay the renewal fees therefor.



The duplicate license may be issued to a room reserved for the exclusive use of designated patrons, provided that the department shall, in the event the license is issued, endorse upon the license the terms and conditions under which the privileges conferred by the said license may be exercised, and provided further that upon the receipt by the department of the request for the duplicate license written notice thereof which shall consist of a copy of the request shall immediately be mailed by the department to the sheriff or chief of police within whose jurisdiction the premises are situated and no duplicate license shall be issued by the department until at least 30 days after such mailing. Upon receipt by the department within 30 days of a protest by the sheriff or chief of police within whose jurisdiction the premises are situated, the department shall not issue the duplicate license until after a hearing is held by the department within the county or city affected and said hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code and the department shall have all the powers granted therein.

A licensee under an on-sale general license, or an on-sale general license for seasonal business, issued for a bona fide public eating place may obtain a duplicate license or licenses under this section for rooms which constitute public premises, as defined in Section 23039, and a licensee under the license issued for public premises may obtain a duplicate license or licenses under this section for rooms which constitute bona fide public eating places, except that a duplicate license or licenses for rooms which constitute bona fide public eating places shall only be issued after the department has made the investigation and determination required by Section 23787. Rooms which constitute bona fide public eating places shall not be considered public premises, as defined in Section 23039, and the provisions of this division applicable solely to these public premises shall not be applicable to these rooms.

SEC. 14. Section 24042.5 of the Business and Professions Code is amended to read:

24042.5. Notwithstanding any other provision of this division, any licensee under an on-sale general or on-sale general license for seasonal business who has a premises with a fixed counter or service bar in one room of the premises for the service of distilled spirits to members of the public for consumption on the premises and who has other rooms on the premises which can be utilized for the same purposes by means of a portable bar counter may elect to request the department to license the portable bar counter itself rather than the additional rooms as provided in Section 24042. However, if two or more portable bar counters are utilized at the same time, in the same room, only one portable bar shall be required to be licensed. The licensee shall pay to the department at the



time of the application for each portable bar counter an amount equal to the license fee payable for a like period for the distilled spirits privileges of the original on-sale general license or on-sale general license for seasonal business. Failure to obtain the portable bar counter license and to pay the fees and renewal fees, as specified in Section 23320, shall subject the licensee to the penalties imposed by this division for failure to obtain an original license or pay the renewal fees therefor.

SEC. 15. Section 24045.7 of the Business and Professions Code is amended to read:

24045.7. (a) (1) The department may issue a special on-sale general license to any nonprofit theater company that is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States. Any special on-sale general license issued to a nonprofit theater company pursuant to this subdivision shall be for a single specified premises only.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve alcoholic beverages to ticketholders only during, and two hours prior to and one hour after, a bona fide theater performance of the company.

(3) Notwithstanding any other provision in this division, a licensed manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, employee, or agent of that person, may serve on the board of trustees of a nonprofit theater company operating a theater in Napa County licensed pursuant to this subdivision.

(4) An applicant for such a license shall accompany the application with an original issuance fee of one thousand dollars (\$1,000) and shall pay an annual renewal fee as provided in Section 23320.

(5) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this subdivision to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and intends that this section be construed accordingly.

(b) (1) The department may issue a special on-sale beer and wine license to any nonprofit theater company which has been in existence for at least eight years, which for at least six years has performed in facilities leased or rented from a local county fair association, and which is exempt



from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of the United States.

(2) Theater companies holding a license under this subdivision may, subject to Section 25631, sell and serve beer and wine to ticketholders only during, and two hours prior to, a bona fide theater performance of the company. Beer and wine may be sold from an open-air concession stand which is not attached to the theater building itself, if the concession stand is located on fair association property within 30 feet of the theater building and the alcoholic beverages sold are consumed only in the theater building itself, or within a designated outdoor area in front of and between the concession stand and the main public entrance to the theater building. Nothing in this section permits a theater company to sell beer or wine during the run of a county fair.

(3) An applicant for a license under this subdivision shall accompany the application with an original issuance fee equal to the annual renewal fee and shall pay an annual renewal fee as provided in Section 23320.

SEC. 16. Section 24045.11 of the Business and Professions Code is amended to read:

24045.11. The department may issue a special on-sale wine license to an establishment licensed to do business as a bed and breakfast inn.

“Bed and breakfast inn,” as used in this section, means an establishment of 20 guestrooms or less, which provides overnight transient occupancy accommodations, which serves food only to its registered guests, which serves only a breakfast or similar early morning meal, and with respect to which the price of the food is included in the price of the overnight transient occupancy accommodation. For purposes of this section, “bed and breakfast inn” refers to an establishment as to which the predominant relationship between the occupants thereof and the owner or operator of the establishment is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the owner or operator is immaterial.

An establishment holding a license under this section is authorized to serve wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment. Wine shall not be given away to guests but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Guests shall not be permitted to remove wine served in the establishment from the grounds.

The applicant for a license shall accompany the application with an original fee of fifty dollars (\$50) and shall pay an annual renewal fee of six dollars (\$6) for each guestroom in the establishment until December



31, 2004, and for each year thereafter the annual fee shall be calculated pursuant to subdivisions (b) and (c) of Section 23320.

SEC. 17. Section 24045.85 of the Business and Professions Code is amended to read:

24045.85. The department may issue a special on-sale beer and wine license to any symphony association organized as a nonprofit corporation more than 30 years before the date of application and which is exempt from the payment of income taxes under Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States.

A symphony association holding a license under this section may sell and serve alcoholic beverages only to persons attending concerts on the licensed premises. Sales of alcoholic beverages shall only be permitted, subject to Section 25631, during the period commencing two hours before the performance and ending one hour after the performance.

The applicant for a license shall accompany the application with an original fee of three hundred dollars (\$300) and shall pay an annual renewal fee as provided in Section 23320.

Original licenses may be issued pursuant to this section until January 1, 1987; thereafter no new licenses shall be issued. Licenses originally issued pursuant to this section prior to January 1, 1987, may continue to be renewed annually by the holder thereof.

SEC. 18. Section 24048 of the Business and Professions Code is amended to read:

24048. Every license, other than a temporary license or a daily on-sale general license issued pursuant to Section 24045.1, is renewable unless the license has been revoked if the renewal application is made and the fee therefor is paid. All licenses expire at 12 midnight on the last day of the month posted on the license. All licenses issued shall be renewed as follows:

(a) On or before the first of the month preceding the month posted on the license, the department shall mail to each licensee at his or her licensed premises, or at any other mailing address that the licensee has designated, an application to renew the license.

(b) The application to renew the license may be filed before the license expires upon payment of the annual fee as set forth in Section 23320, 23358.3, or 23399.

(c) For 60 days after the license expires, the license may be renewed upon payment of the annual renewal fee as set forth in Section 23320, 23358.3, or 23399, plus a penalty fee that shall be equal to 50 percent of the annual fee.

(d) Unless otherwise terminated, or unless renewed pursuant to subdivision (b) or (c) of this section, a license that is in effect on the



month posted on the license continues in effect through 2 a.m. of the 60th day following the month posted on the license, at which time it is automatically canceled.

(e) On or before the 10th day preceding the cancellation of a license, the department shall mail a notice of cancellation to each licensee who has not either filed an application to renew his or her license or notified the department of his or her intent not to do so. Failure to mail the renewal application in accordance with subdivision (a) or to mail the notice provided in this subdivision shall not continue the right to a license.

(f) A license that has been canceled pursuant to subdivision (d) of this section may be reinstated during the 30 days immediately following cancellation upon payment by cashier's check or money order of the annual renewal fee as set forth in Section 23320, 23358.3, or 23399, plus a penalty fee that shall be equal to 100 percent of the annual fee. A license that has been canceled pursuant to subdivision (d) of this section and that has not been reinstated within 30 days pursuant to this subdivision is automatically revoked on the 31st day after the license has been canceled.

(g) No renewal application shall be deemed filed within the meaning of this section unless the document itself has been actually delivered to, and the required renewal fee has been paid at, any office of the department during office hours, or unless both the document and fee have been filed and remitted pursuant to Section 11003 of the Government Code.

SEC. 19. The Department of Alcoholic Beverage Control shall conduct a study to assess its existing automation and information technology systems and identify necessary improvements and possible enhancements. The results of this study shall be reported to the Legislature on or before May 15, 2002. The report shall also identify potential revenue sources that could be used to fund these improvements and enhancements including, but not limited to, receiving federal grants, earmarking a portion of any future Consumer Price Index adjustments authorized by Section 23320 of the Business and Professions Code, or using the revenue from the fee for services proposed in Section 21 of this act.

SEC. 20. The Department of Alcoholic Beverage Control shall also study the feasibility of charging a fee to applicants for, and holders of, licenses for services provided by the department within existing programs, and report the results of the study to the Legislature by May 15, 2002. In conducting this study, the department shall take into



consideration whether the public would benefit from a “fee for service” policy.

O

